

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 5

CHOCTAW MANAGEMENT SERVICES, INC.

Employer

and

Case 5-RC-15947

UNITED STEEL, PAPER AND FORESTRY, RUBBER,  
MANUFACTURING, ENERGY, ALLIED  
INDUSTRIAL AND SERVICE WORKERS  
INTERNATIONAL UNION, AFL-CIO, CLC

Petitioner

**REPORT ON OBJECTIONS**  
**ORDER CONSOLIDATING CASES**  
**AND NOTICE OF HEARING**

Pursuant to a Stipulated Election Agreement<sup>1</sup> approved on February 23, 2006,<sup>2</sup> a secret-ballot election was conducted under my supervision on March 10, with the following results:

Approximate number of eligible voters	27
Void ballots	1
Votes cast for Petitioner	6
Votes cast against participating labor organization	15
Valid votes counted	21
Challenged ballots	2
Valid votes counted plus challenged ballots	23

The challenged ballots do not affect the election result.

On March 13, the Petitioner filed timely objections<sup>3</sup> to the conduct affecting the results of the election.<sup>4</sup>

---

<sup>1</sup> The unit is: "all full-time and regular part-time janitors, floor technicians, drivers, and trainers employed by the Employer at the Sparrows Point, Maryland locations; but excluding all office clerical employees, managerial employees, professional employees, guards, and supervisors as defined in the Act.

<sup>2</sup> Unless otherwise specified, all dates are 2006.

<sup>3</sup> Attached as Exhibit A.

<sup>4</sup> The petition was filed on February 8. I will consider on its merits only that alleged interference which occurred during the critical period which begins on and includes the date of the filing of the petition and extends through the election. Goodyear Tire and Rubber Co., 138 NLRB 453, 455 (1962).

## **THE OBJECTIONS**

On March 6, the Petitioner filed an unfair labor practice charge in Case 5-CA-32929. On May 22, a Complaint and Notice of Hearing issued in Case 5-CA-32929 which contains allegations in Paragraphs 5 through 10 which are substantially identical and “intimately connected” to the Objections attached as Exhibit A.

The Board has held that an election may be set aside on the basis of pre-election misconduct discovered by the Regional Director during the course of the investigation of objections or unfair labor practice charges even though such conduct was not specifically alleged in the objections.<sup>5</sup> The investigation disclosed evidence that the Employer, during the critical period, engaged in the conduct alleged to be unlawful in Paragraphs 5 through 10 of the Complaint and Notice of Hearing in Case 5-CA-32929. I find that this evidence raises substantial and material issues that would, if true, warrant setting the election aside, and that can best be resolved on the basis of testimony taken at a hearing.

Therefore, in view of the similarity of the Petitioner’s Objections with the unfair labor practices alleged in Case 5-CA-32929, I will order the consolidation of Case 5-RC-15947 with Case 5-CA-32929 for the purpose of a hearing, ruling, and decision by an Administrative Law Judge on the issues raised by the Petitioner’s Objections.

---

<sup>5</sup> See, American Safety Equipment Corp., 234 NLRB 501 (1978), enf. denied on other grounds, 643 F. 2d 693 (10<sup>th</sup> Cir. 1991) where the Board found inter alia, that the Regional Director cannot properly “ignore evidence relevant to the conduct of the election... simply because the Union may not have specifically mentioned such conduct in its objections.” In fact, the Board, in no uncertain terms, further found that whether or not the Union contemplated certain conduct when it filed its objections, when the Regional Director “receives or discovers evidence during his investigation that shows that the election has been tainted, he has no discretion to ignore such evidence.”

### ORDER

IT IS HEREBY ORDERED, pursuant to Section 102.33 and 102.69 of the National Labor Relations Board's Rules and Regulations, that Case 5-RC-15947 be, and it hereby is, consolidated with Case 5-CA-32929, for the purpose of a hearing, ruling and decision by an Administrative Law Judge on the Objections. Thereafter, Case 5-RC-15947 shall be transferred to and continued before the Board in Washington, DC, and the provisions of Section 102.46 and 102.49 of the above-mentioned Rules shall govern the filing of exceptions.

### NOTICE OF HEARING

PLEASE TAKE NOTICE that commencing at 10:00 a.m. E.D.T., on the 28<sup>TH</sup> day of August 2006, and on consecutive days thereafter, a hearing will be conducted in the John A. Penello Memorial Hearing Room, 7<sup>th</sup> Floor, 103 South Gay Street, Baltimore, Maryland before a duly designated Administrative Law Judge of the National Labor Relations Board on the issues raised by Petitioner's Objections and on the allegations set forth in the Complaint issued in Case 5-CA-32929 at which time the parties will have the right to appear in person and give testimony.

Dated at Baltimore, Maryland this 1<sup>st</sup> day of June 2006.

---

Wayne R. Gold, Regional Director  
National Labor Relations Board, Region 5  
Appraisers Store Building  
103 South Gay Street, 8<sup>th</sup> Floor  
Baltimore, MD 21202

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

CHOCTAW MANAGEMENT SERVICES, INC.  
Employer

and

UNITED STEEL, PAPER AND FORESTRY, RUBBER,  
MANUFACTURING, ENERGY, ALLIED INDUSTRIAL AND  
SERVICE WORKERS INTERNATIONAL UNION,  
AFL-CIO, CLC

Petitioner

CASE NO. 5-RC-15947

DATE OF MAILING June 8, 2006

**AFFIDAVIT OF SERVICE OF**

**REPORT ON OBJECTIONS  
ORDER CONSOLIDATING CASES  
AND NOTICE OF HEARING**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

**REGULAR MAIL**

Mr. Brandon Gainer  
Choctaw Management Services, Inc.  
5111 North Point Truck Dock 163  
Sparrows Point, MD 21219

Kara M. Maciel, Esq.  
Krupin O'Brien LLC  
1156 Fifteenth Street, NW, Suite 200  
Washington, DC 20005

Mr. Donald Forcino  
United Steel Paper and Forestry Rubber  
Manufacturing Energy Allied Industrial and  
Service Workers International Union,  
AFL-CIO, CLC  
8019 Corporate Drive, Suite H  
Baltimore, MD 21236

Subscribed and sworn to before me on June 8, 2006

DESIGNATED AGENT

**NATIONAL LABOR RELATIONS BOARD**

H:\R05COM\OBJS&CHALL\Choctaw Report on Objections.doc